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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,521	12/20/2000	Paul Vegliante	2112-342 US	6443

7590 02/01/2005

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EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No.	Applicant(s)	
	09/741,521	VEGLIANTE ET AL.	
	Examiner	Art Unit	
	Isaac N Hamilton	3724	

-- Th MAILING DATE of this communication appears n th c ver sheet with the c rrespondenc address --
Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent-term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Pri rity under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6-15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas, Jr. et al (5,440,961), hereafter Lucas. Lucas discloses everything as noted in Diagram 1, and discloses attraction properties in column 3, line 8; channel 13; bottom edge of upper portion of blade housing protrudes on either side of blade in figure 3; end surface of upper portion is rounded and inclined upward as shown in figure 2; tracking device 34; middle portion juxtaposed lower portion and upper portion; predetermined length and predetermined clearance of said middle portion shown in figures 2 and 3; tubular base 31; channel has tubular shape as shown in figure 3; left section 39; right section 35; rivet 37; aperture 51; blade angled from bottom edge at 30 degree angle as shown in figure 2; depression 7; rear edge 5; cover of a carton
9. Lucas does not disclose materials having hardness in the shore A range; having lubricity; made of rigid vinyl, vinyl, acetal, silicon, PVC, acrylic, and polyvinyl chloride comprising at least %10 plasticizer. It would have been obvious to one of ordinary skill in the art to provide the elements mentioned above for the purpose of making the apparatus in Lucas more durable for re-use. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

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Note in claims 7, 38 and 39 that coextrusion is a process that is well known in the manufacturing of the materials mentioned above.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas as applied to claims 1, 4, 6-15 and 18-20 above, and further in view of Chuang (4,960,022). Lucas discloses everything as noted above, but does not disclose a grip surface having a concave shape.

However, Chuang teaches grip surface having concave shape in figure 3D. It would have been obvious to provide a grip surface having a concave shape in Lucas as taught by Chuang in order to prevent a user's hand from slipping off the upper portion of the blade housing.

4. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas as applied to claims 1, 4, 6-15 and 18-20 above, and further in view of Chiu (5,398,576). Lucas discloses everything as noted above, but does not disclose a releasable end cap. However, Chiu teaches releasable end cap 33. It would have been obvious to provide releasable end caps in Lucas as taught by Chiu in order to remove the blade for maintenance. Note male protrusion on face of end cap 33, and female receptacle adjacent element 13 on end of elongated rail base in figure 1.

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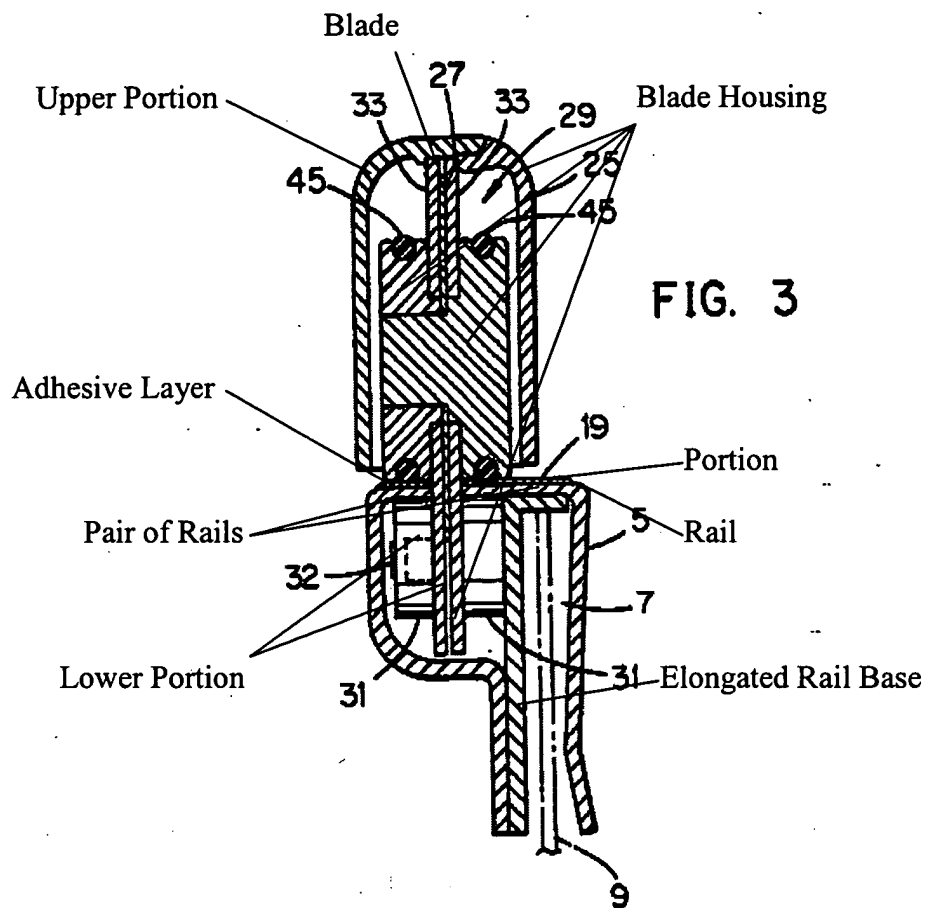


Diagram 1. Figure 3 in Lucas.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4, 6-20 have been considered but are moot in view of the new ground(s) of rejection. This includes the Declaration of Mr. Paul Vegliante.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

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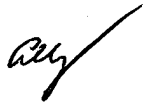
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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IH

January 31, 2005



Allan N. Shoap
Supervisory Patent Examiner
Group 3700